

Application Serial Number 09/963,630
Response to Office Action
Dated April 10, 2006

REMARKS / DISCUSSION OF ISSUES

Claims 1-20 are pending in the application upon entry of the present amendment. Claims 1, 8 and 16 are the independent claims.

Rejections Under 35 U.S.C. § 103

Claims 1-20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Ellis, et al.* (U.S. Patent 6,774,926) and *Killian* (U.S. Patent 6,136,316). For at least the reasons set forth below, it is respectfully submitted that this rejection is improper and should be withdrawn.

A proper rejection under 35 U.S.C. § 103(a) requires that **all** of the claimed elements be found in the applied art. If a **single** claimed element is not found in the applied art, a *prima facie* case of obviousness cannot be properly established. Furthermore, obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is a teaching, suggestion or motivation to do so found in the references themselves or in the knowledge generally available to one of ordinary skill in the art.

At the outset, Applicants respectfully submit that the Examiner has failed to clearly articulate a rejection citing features found in the applied art. For instance, as the record reflects, there has been significant attention paid to the term 'switch' in the prosecution of the present application. Yet, and as discussed more fully herein, the Office Action does not point to a specific element in the

Application Serial Number 09/963,630
Response to Office Action
Dated April 10, 2006

applied art as being a switch. A basic goal of examination as set forth in MPEP § 706 is to clearly articulate any rejection early in the prosecution process so that the applicant has the opportunity to provide evidence of patentability and otherwise reply completely at the earliest opportunity. Applicants respectfully submit that a rejection has not been clearly articulated.

Claim 1 features a receiver and a plurality of other program receiving devices adapted to receive programs. The receiver also includes a **reproduction element and a switch**, which is connected to reproduction device. The switch is adapted to selectively connect each of the plurality of program receiving devices to the reproduction element.

Claim 8 includes a similar feature.

In an embodiment described in the filed application, a reproduction element 30 is connected to a switch 49. The switch 49 selectively connects each of a plurality of program receiving elements 40-44 to the reproduction element 30. As such, the receiver 1 includes a reproduction element 30, a plurality of receiving elements 40-44 and a switch 49 that selectively connects each of the program receiving elements to the reproduction elements, allowing the reproduction element to display a selected program from a selected program receiving device.

Applicants maintain their position detailed in the Reply dated October 11, 2005 with regard to the inadequacy of the teachings of *Ellis, et al.* to provide at least the disclosure of a **plurality of receiving devices connected to a reproduction element**. To wit, the Office Action relies on the disclosure of the user television equipment 36 and the

Application Serial Number 09/963,630
Response to Office Action
Dated April 10, 2006

computer equipment 38 of *Ellis, et al.* for a plurality of receiving devices. However, the computer 38 and television 38 represent the terminus of the system. Thus, there are no further connections thereto disclosed.

The Examiner then attempts to cobble a rejection by turning to *Killian* in an effort to cure the deficiencies of *Ellis, et al.* Applicants respectfully submit that this fails to even render the elements that the Examiner concedes are lacking in *Killian*.

At page 5 of the Office Action, the Examiner asserts that *Killian* discloses a switch connected to the reproduction device and refers to column 4, lines 20-28 and column 5, lines 27-29 of *Killian* for support for this assertion.

The undersigned attorney has again reviewed these portions of *Killian* and respectfully disagrees with the assertion of the Examiner. To wit, the platform 12 and audio/video overlays, respectively receive and integrate the web page information and television signals that are provided to a television 40. These are not switches and are certainly not a switch connected to a plurality of receiving devices. While it is not entirely clear what is regarded in *Killian* by the Examiner as being the switches as featured in claim 1, the Examiner alludes to an interface as being the switch. At column 51, lines 27-29, the reference discloses that the audio/video overlays 32 communicate integrated information to television 40 using video and audio outputs 36, 38, respectively. These overlays and a/v outputs may provide an interface, but do not disclose the switches as claimed.

Application Serial Number 09/983,630
Response to Office Action
Dated April 10, 2006

Moreover, and as will be appreciated by one of ordinary skill in the art, an interface is not fungible with a switch. Therefore, and while in no way conceding to the propriety of the combination of *Ellis, et al.* and *Killian* as set forth in the Office Action, it is respectfully submitted that the reference to *Killian* lacks at least the disclosure of a recited feature of each of claims 1 and 8.

Finally, in the response to the undersigned arguments in the October 11, 2005 Response, the Examiner claims that *Ellis, et al.* has features analogous to a switch. First of all, the Examiner has conceded that *Ellis, et al.* fails to disclose the claimed switches. Moreover, Applicants respectfully submit that the reference must disclose a particular feature of a claim, and not be merely analogous to the feature.

Accordingly, it is respectfully submitted that a *prima facie* case of obviousness has not been established by the Office. As such, claims 1 and 8 and the claims that depend therefrom are patentable over the applied art.

Claim 16 is drawn to a method. The method features: **receiving a plurality of programs and providing simultaneously to each of a plurality of receiving devices a respective one of the plurality of programs.**

It is respectfully submitted that neither the reference to *Ellis, et al.* nor the reference to *Killian*, taken alone or in combination, disclose the referenced features of claim 16. Applicants maintain their position as set forth in the Response of October 11, 2005.

Applicants offer additional rebuttal of the rejection

Application Serial Number 09/963,630
Response to Office Action
Dated April 10, 2006

presently. (While Applicants have attempted to avoid repetition of the traversal previously provided, some repetition was not easily avoided.)

In an embodiment, the receiver 1 receives a plurality of programs and provides one of the plurality of programs to each of the plurality of program receiving devices 40-44.

The Office Action relies on the disclosure in *Ellis, et al.* at column 1, lines 26-35, lines 47-51; column 10, lines 30-33 in an attempt to meet the disclosure of the referenced features. At the noted portions of *Ellis, et al.*, there is no teaching of the features of claim 16 noted above. To this end, the referenced portions disclose a system for distributing personal television programs from individual contributors to viewers over a communication network; the use by contributors of user television equipment, user equipment, cellular phones and video equipment; and the system delivering the requested program to the viewer over the communications link such as communications paths 40 and 44.

However, the relied upon portions of *Ellis, et al.* do not disclose receiving a plurality of programs and providing simultaneously to each of a plurality of receiving devices a respective one of the plurality of programs. At column 10, lines 30-33, the reference to *Ellis, et al* discloses processing a request from a viewer and delivering the program to the viewer. Thus, this portion describes how one viewer accesses one program.

At page 3 of the Office Action, the Examiner relies on column 1, lines 32-35 of *Ellis, et al.*. This portion of

Application Serial Number 09/963,630
Response to Office Action
Dated April 10, 2006

Ellis, et al discloses that viewers may receive personal television programming through a distribution facility. However, this is not the disclosure of the noted portion of claim 16. In addition, at page 3, the Office Action states "...receives programs from channel (i.e., one program at a time.))" This is not what is claimed. Rather, claim 16 features **receiving a plurality of programs and providing simultaneously to each of a plurality of receiving devices a respective one of the plurality of programs**.

For the reasons set forth above, it is respectfully submitted that a *prima facie* case of obviousness has not been established.

Accordingly, for at least the reasons set forth above, it is respectfully submitted that the rejection of claim 16 based on the combination of *Ellis, et al.* and *Killian* is improper and should be withdrawn. Therefore *Ellis, et al.* cannot serve to establish a *prima facie* case of anticipation of claim 16. As such, it is respectfully submitted that claim 16 is patentable over the applied art. Moreover, claims 17-20 which depend from claims 16 are also patentable over the applied art at least because of their dependence on claim 16.

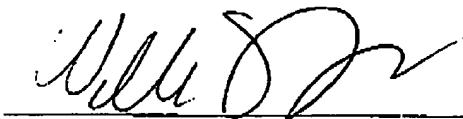
Conclusion

In view of the foregoing, applicant(s) respectfully request(s) that the Examiner withdraw the objection(s) and/or rejection(s) of record, allow all the pending claims, and find the application in condition for allowance. If any points remain in issue that may best be

Application Serial Number 09/963,630
Response to Office Action
Dated April 10, 2006

resolved through a personal or telephonic interview, the Examiner is respectfully requested to contact the undersigned at the telephone number listed below.

Respectfully submitted on behalf of:
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